



Republic of the Philippines
PROVINCE OF PANGASINAN
Lingayen
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OFFICE OF THE SANGGUNIANG PANLALAWIGAN SECRETARY

CERTIFICATION

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that at the regular session duly constituted of the Sangguniang Panlalawigan, Province of Pangasinan, held on January 14, 2019 at Lingayen, Pangasinan, the following provincial resolution was approved:

Authored by SP Member Noel C. Bince

PROVINCIAL RESOLUTION NO. 9-2019

APPROVING AND ADOPTING AS ITS DECISION EN BANC, THE RECOMMENDATION OF THE COMMITTEE ON GOOD GOVERNMENT AND ACCOUNTABILITY OF PUBLIC OFFICERS IN SP ADMINISTRATIVE CASE NO 02-2018

WHEREAS, the Sangguniang Panlalawigan was in receipt of a Memorandum of Appeal filed on February 26, 2018 by Punong Barangay Zenaida B. Camacho against the Decision of the Sangguniang Bayan of Bayambang, Pangasinan;

WHEREAS, the said case was referred to the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights and was docketed as SP Administrative Case No. 02-2018;

WHEREAS, after several hearings, careful review and study on the said case, the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights submitted its Recommendation which was adopted as Committee Report No. 02 -2019 by the Sangguniang Panlalawigan;

RECOMMENDATION

This will resolve the appeal filed by Zenaida B. Camacho, Punong Barangay of Buayaen, Bayambang, Pangasinan filed herein on February 26, 2018 against the Decision of the Sangguniang Bayan of Bayambang, Pangasinan dated February 12, 2018, the dispositive portion of which is quoted hereunder, to wit:

“WHEREFORE, premises duly considered, the Sangguniang Bayan of Bayambang finds Zenaida B. Camacho, Punong Barangay of Buayaen of this Municipality, administratively liable for one (1) count Grave Misconduct and one (1) count Prejudicial to the Best Interest of the Service. Punong Barangay Camacho is hereby suspended from assuming the duties of her office for a total period of four (4) months, effective immediately.”



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OFFICE OF THE SANGGUNIANG PANLALAWIGAN SECRETARY

Provincial Resolution No. 9-2019

Page 2

Upon perusal of the records, and upon further verification, it would show that the case was filed during a previous term of office of the respondent-appellant, and was re-elected to a new term as Punong Barangay of Buayaen in the May 2018 elections. Taking from the much celebrated Aguinaldo Doctrine which emphasized that "A public official cannot be removed for the administrative misconduct committed during a prior term, since his reelection to office operates as a condonation of the officers' previous misconduct to the extent of cutting off the right to remove him therefore", this appeal could have been clearly dismissed outright upon her reelection to office, but this Committee opts to dismiss the same because the Respondent-appellant's right to due process was clearly violated.

The records would show that during the preliminary conference of the case before the Sangguniang Bayan, respondent-appellant opted to exercise her right to a formal investigation. This right is explicitly inscribed in the Rules of the Sangguniang Bayan of Bayambang which provides that "The respondent shall be accorded full opportunity to appear and to defend himself in person or by counsel, to confront and cross-examine the witnesses against him, and to require the attendance of witnesses and the production of documents through compulsory process of subpoena ad testificandum and subpoena duces tecum.", which is also found in Republic Act 7160, otherwise known as the Local Government Code of 1991. By denying respondent-appellants plea to have her case formally investigated, the Sangguniang Bayan limited her opportunity to explain and defend herself by not being able to confront the complainants and their witnesses, and not having a chance to present her own.

Ledesma vs Court of Appeals, 541 SCRA 444, elaborates on the well-established doctrine of due process in administrative proceedings as follows:

"Due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself. In administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. The essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or the ruling complained of."

Well-entrenched is the pronouncement of the landmark case Ang Tibay vs Court of Industrial Relations, 69 Phil. 635, on due process in administrative proceedings which states:

"Due process in administrative proceedings requires compliance with the following cardinal principles: (1) the respondent's right to a hearing, which includes the right to present one's case and submit supporting evidence, must be observed; (2) the tribunal must consider the evidence



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OFFICE OF THE SANGGUNIANG PANLALAWIGAN SECRETARY

Provincial Resolution No. 9-2019
Page 3

presented; (3)the decision must have some basis to support itself; (4)there must be substantial evidence;(5)the decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to parties affected;(6)in arriving at a decision, the tribunal must have acted on its own consideration of the law and facts of the controversy and must not have simply accepted the views of a subordinate; and (7) the decision must be rendered in such manner that respondents would know the reasons for it and the various issues involved.”

In the present case, the first requirement stated above was not complied with notwithstanding respondent-appellant’s plea. When the Sangguniang Bayan explicitly provides in its Rules that “respondent shall be accorded full opportunity to appear and to defend himself in person or by counsel, to confront and cross-examine the witnesses against him, and to require the attendance of witnesses”, it cannot, by way of convenience, relax such rule, especially when the respondent strongly opts to claim the same.

A decision rendered without fully satisfying the essence of due process as established in the Constitution is flawed, being procedurally infirm, hence cannot stand and need to be voided.

WHEREFORE, based on the foregoing, the Decision of the Sangguniang Bayan of Bayambang finding respondent-appellant Zenaida Camacho, administratively liable for one (1) count Grave Misconduct and one (1) count Prejudicial to the Best Interest of the Service. Punong Barangay Camacho is hereby suspended from assuming the duties of her office for a total period of four (4) months, is hereby SET ASIDE by the Sangguniang Panlalawigan.

SO ORDERED.

January 11, 2019, Lingayen, Pangasinan.

WHEREAS, the Sangguniang Panlalawigan finds the said Recommendation to be in order;

WHEREFORE, in view of the foregoing, on motion of SP Member Noel C. Bince, duly seconded, it was –

RESOLVED, by the Sangguniang Panlalawigan in session assembled to approve, as it is hereby approved and adopted as its decision en banc, the Recommendation of the Committee on Good Government and Accountability of Public Officers in SP Administrative Case No. 02-2018;



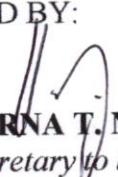
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www.pangasinan.gov.ph

OFFICE OF THE SANGGUNIANG PANLALAWIGAN SECRETARY


Provincial Resolution No. 9-2019
Page 4

RESOLVED FURTHER, that copies of this resolution be furnished to Brgy. Capt. Zenaida B. Camacho, Mr. Jacinto Perez and Mr. Lito M. Balmoja and their counsels, for their information and guidance.

CERTIFIED BY:


VERNA T. NAVA-PEREZ
Secretary to the Sanggunian

ATTESTED:


JOSE FERDINAND Z. CALIMLIM, JR.
Vice Governor
(Presiding Officer)